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6 Attorney for Ariel Cruz-Ayala

7 **UNITED STATES DISTRICT COURT**
8 **DISTRICT OF NEVADA**

9 UNITED STATES OF AMERICA,

10 Plaintiff,

11 v.

12 ARIEL CRUZ-AYALA

13 aka "Jamie Avita-Ayala
14 aka "Ariel Cruz"
15 aka "Ariel Ayala"
16 aka "Jaime Ayala"
17 aka "Jaime Avita,"

Defendant.

Case No. 2:23-mj-1092-BNW

**Stipulation to Extend Deadlines to
Conduct Preliminary Hearing and
File Indictment (Second Request)**

18 IT IS HEREBY STIPULATED AND AGREED, by and between Jason M. Frierson,
19 United States Attorney, and Justin Washburne, Assistant United States Attorney, counsel for
20 the United States of America, and Jacquelyn N. Witt, Assistant Federal Public Defender,
21 counsel for Defendant Ariel Cruz-Ayala, that the Court schedule the preliminary hearing in this
22 case for no earlier than 60 days from the date of the filing of this stipulation. This request
23 requires that the Court extend two deadlines: (1) that a preliminary hearing be conducted within
24 14 days of a detained defendant's initial appearance, see Fed. R. Crim. P. 5.1(c); and (2) that
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1 an information or indictment be filed within 30 days of a defendant's arrest, *see* 18 U.S.C. §
2 3161(b).

3 The Stipulation is entered into for the following reasons:

4 1. The United States Attorney's Office has developed an early disposition program
5 for immigration cases, authorized by the Attorney General pursuant to the PROTECT ACT of
6 2003, Pub. L. 108-21.

7 2. The early disposition program for immigration cases is designed to: (1) reduce
8 the number of hearings required in order to dispose of a criminal case; (2) avoid having more
9 cases added to the court's trial calendar, while still discharging the government's duty to
10 prosecute federal crimes; (3) reduce the amount of time between complaint and sentencing; and
11 (4) avoid adding significant time to the grand jury calendar to seek indictments in immigration
12 cases, which in turn reduces court costs.

13 3. The government has made a plea offer in this case that requires defendant to
14 waive specific rights and hearings in exchange for "fast-track" downward departure under
15 USSG § 5K3.1. This offer will be withdrawn if it is not timely accepted before this matter is
16 indicted and before a preliminary hearing is held.

17 4. Under Federal Rule of Criminal Procedure 5.1(c), the Court "must hold the
18 preliminary hearing within a reasonable time, but no later than 14 days after the initial
19 appearance if the defendant is in custody "

1 5. However, under Rule 5.1(d), "[w]ith the defendant's consent and upon a showing
2 of good cause-taking into account the public interest in the prompt disposition of criminal cases-
3 a magistrate judge may extend the time limits in Rule 5.1(c) one or more times"

4 6. Furthermore, under the Speedy Trial Act, 18 U.S.C. § 3161(b), "[a]ny
5 information or indictment charging an individual with the commission of an offense shall be
6 filed within thirty days from the date on which such individual was arrested or served with a
7 summons in connection with such charges."

8 7. The government has extended a Fast Track offer, and defendant has accepted
9 the same.

10 8. The parties expect a sentencing date will be set soon, and continuing the
11 preliminary hearing will allow defendant to enter his change of plea and be sentenced in
12 accordance with the fast-track program.

13 9. This Court may then vacate the preliminary hearing after sentencing, if deemed
14 appropriate by the Court.

15 10. Defendant is in custody and agrees to the extension of the 14-day deadline
16 imposed by Rule 5.1(c) and waives any right to remedies under Rule 5.1(c) or 18 U.S.C. §
17 3161(b), provided that the information or indictment is filed on or before the date ordered
18 pursuant to this stipulation.

19 11. The parties agree to the extension of that deadline.

20 12. This extension supports the public interest in the prompt disposition of criminal
21 cases by permitting defendant to consider entering into a plea agreement under the United States
22 Attorney's Office's fast-track program for § 1326 defendants.
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1 13. Accordingly, the additional time requested by this stipulation is allowed under
2 Federal Rule of Criminal Procedure 5. l(d).

3 14. In addition, the parties stipulate and agree that the time between today and the
4 scheduled preliminary hearing is excludable in computing the time within which the defendant
5 must be indicted and the trial herein must commence pursuant to the Speedy Trial Act, 18
6 U.S.C. § 3161(b) and (h)(7)(A), considering the factors under 18 U.S.C. § 3161(h)(7)(B)(i) and
7 (iv).
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9 15. This is the second request for an extension of the deadlines by which to conduct
10 the preliminary hearing and to file an indictment.
11

12 DATED this 21st day of March, 2024

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14 RENE L. VALLADARES
15 Federal Public Defender

 JASON M. FRIERSON
 United States Attorney

16 By /s/ Jacquelyn N. Witt

 By /s/ Justin Washburne

17 JACQUELYN N. WITT
18 Assistant Federal Public Defender

 JUSTIN WASHBURNE
19 Assistant United States Attorney
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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Plaintiff,

v.

ARIEL CRUZ-AYALA
aka "Jamie Avita-Ayala"
aka "Ariel Cruz"
aka "Ariel Ayala"
aka "Jaime Ayala"
aka "Jaime Avita,"

Defendant.

Case No. 2:23-mj-1092-BNW

ORDER

Based on the stipulation of counsel, good cause appearing, and the best interest of justice being served; the time requested by this stipulation being excludable in computing the time within which the defendant must be indicted and the trial herein must commence pursuant to the Speedy Trial Act, 18 U.S.C. § 3161(b) and (h)(7)(A), and Federal Rule of Criminal Procedure 5.1, considering the factors under 18 U.S.C. § 3161(h)(7)(B)(i) and (iv):

IT IS THEREFORE ORDERED that the preliminary hearing currently scheduled for March 26, 2024 at 10:00 a.m., be vacated and continued to June 4, 2024 at the hour of 10:00 am.

DATED this 22nd day of March, 2024.



UNITED STATES MAGISTRATE JUDGE